

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSE CARRILLO

vs.

PAM CARTAGE CARRIERS LLC,
PAM TRANSPORT, INC., AND
AARON TISDALE

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C. A. No. 4:20-cv-3568

DEFENDANT PAM CARTAGE CARRIERS LLC's NOTICE OF REMOVAL

A. INTRODUCTION

1. Plaintiff is JOSE CARRILLO; defendants are PAM CARTAGE CARRIERS, LLC, is a defendant, PAM TRANSPORT, INC., is an improper and unserved defendant AND AARON TISDALE is an unserved defendant.

2. On September 8, 2020, plaintiff sued defendants for negligence in the 234th Judicial District Court of Harris County, Texas.

3. Defendant PAM CARTAGE CARRIERS, LLC, was served with this suit on October 14th, 2020. Defendant files this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b). *Board of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

B. BASIS FOR REMOVAL

4. Removal is proper because there is complete diversity between the parties. 28 U.S.C. § 132(a); *Johnson v. Columbia Props. Anchorage, L.P.*, 437 F.3d 894, 899-900 (9th Cir. 2006). Plaintiff is a resident and citizen of Harris County, Texas. Defendant PAM CARTAGE CARRIERS, LLC, is incorporated in Ohio with its principal office in Tonitown, Arkansas. (Defendant PAM

TRANSPORT, INC. has no registered agent in El Paso, Texas, as alleged, and remains unserved.) Defendant AARON TISDALE is a resident of Florida and remains unserved. The amount in controversy exceeds \$1 million according to Plaintiff's petition. 28 U.S.C. § 1332(a); *Andrews v. E.I. Du Pont De Nemours & Co.*, 447 F.3d 510, 514-515 (7th Cir. 2006). This action arises out of an collision which occurred on or about September 3, 2019, in Harris County, Texas. Defendant AARON TISDALE, was driving a vehicle owned and operated by unserved defendant, AARON TISDALE.

5. No other defendants have been properly served with plaintiff's petition.

6. Copies of all pleadings, process, orders, and other filings in the state-court suit are attached to this notice as required by 28 U.S.C. § 1446(a) attached as Exhibit A.

7. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

8. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

C. JURY DEMAND

9. Plaintiffs did demand a jury in the state-court suit.

D. CONCLUSION

10. For these reasons, defendant asks the court to remove the suit to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

/s/ Owen H. Ellington

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OF COUNSEL:

ELLINGTON & ASSOCIATES

ATTORNEY-IN-CHARGE FOR

DEFENDANT PAM TRANSPORT, INC.

CERTIFICATE OF SERVICE

I certify that a copy of Defendants' Notice of Removal was served on the 19th day of October, 2020, by electronic service and facsimile on the following attorney in charge for plaintiff:

Kurt B. Arnold

J. Kyle Findley

Adam Lewis

Arnold & Itkin LLP

6009 Memorial Drive

Houston, TX 77007

/s/ Owen H. Ellington

Owen H. Ellington